

REMARKS

Status of the Claims

Claims 13-37, 50-73, 87-110 and 112-189 were previously pending. Claims 13, 23, 33, 35, 50, 60, 70, 72, 87, 97, 107, and 109 have been amended to recite that the perturbant comprises a carboxylic acid or acylated amino acid of a specified formula. Support for this amendment can be found, for example, in the claims as originally filed and on page 26, line 13 - page 27, line 1 of the application as filed.

Applicants note that the formula of the carboxylic acid of claims 13, 23, 33, 35, 50, 60, 70, 72, 87, 97, 107, and 109 does *not* include the recitation "R being optionally substituted with . . . heterocyclic having 3-10 ring atoms . . .". This substitution pattern for R has also been removed from claims 22, 31, 59, 68, 96, and 105.

Claims 17-21, 27-30, 37-49, 54-58, 63-67, 91-95, and 100-104, 111, 128-130, 138, 151, 164, and 177 have been canceled without prejudice or disclaimer. Claims 190 - 195 have been added. Accordingly, claims 13-16, 22-26, 31-36, 50-53, 59-62, 68-73, 87-90, 96-99, 105-110, and 112-127, 131-137, 139-150, 152-163, 165-176, and 178-195 are pending and at issue.

Rejections Under 35 U.S.C. § 103(a)

Claims 13-36, 50-73, 87-110 and 112-189 stand rejected as obvious over Makino in view of Morishita. While Applicants respectfully disagree with the Examiner's rejection, the claims have been amended to recite that the perturbant comprises a carboxylic acid or acylated amino acid of a specified formula. Applicants respectfully request that the obviousness rejection be withdrawn.

Obviousness-type Double Patenting and Common Ownership Rejections

Claims 13-37, 50-74, 87-189 stand rejected under the judicially created doctrine of obviousness-type double patenting over various claims of U.S. Patent Nos. 6,071,538, 5,714,167, and 6,348,207. Upon the finding of allowable subject matter, applicants agree to file a terminal

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disclaimer over these patents. Applicants also agree to submit a declaration under § 103(c) upon the finding of allowable subject matter.

In view of the above amendment, applicant believes the pending application is substantively in condition for allowance.

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Respectfully submitted,

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